

**Honorable Nancy Hershey Lord**  
U.S. Bankruptcy Court  
Eastern District New York  
271 Cadman Plaza East, Suite 1595  
Brooklyn, N.Y. 11201-1800

November 21, 2013

**Hand Delivered & U.S. Mail**

**RE: Alevtina Dick-Case No. 11-41682-nhl**

**Notification of Illegal, Unethical, and Intentional Misconduct by**  
**Robert L. Geltzer U.S. Trustee**  
**The Law Offices of Robert L. Geltzer,**  
**Robert L. Geltzer, Attorney at Law**

CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF  
NEW YORK  
2013 NOV 22 P 1:02  
RECEIVED

Dear Judge Lord:

I am Leslie Dick, the husband of Alevtina Dick. I am writing to apprise you of the Dilatory conduct of Trustee Robert L. Geltzer as it pertains to the interference & effectuating the withholding of my Personal Injury Case File. The Trustee Robert L. Geltzer has prevented the transfer of my case file to my Attorneys Dinkes and Schwitzer, for the last 5-6 months. These acts are illegal, unethical, intentional and are currently ongoing. I will be asking this Honorable Court for Justice.

I will outline the actions which he intentionally practiced upon my attorneys, a Supreme Court Justice, my wife and I outside of the Law with no Legal Jurisdiction, Bankruptcy Order and/or Subpoena to do so.

1.) On or about July 8, 2013 I signed a Consent to change Law Firms from Schwartz, Goldstone and Campisi to my current Attorneys Dinkes and Schwitzer, P.C. Shortly thereafter, my wife signed a Consent to also retain Dinkes and Schwitzer.

2.) In response, my former Attorney Joseph Campisi indicated that he cannot release my file without the consent of the Trustee Robert L. Geltzer and The Law Offices of Robert L. Geltzer (Attorneys for the Trustee). This court should be aware that my previous Attorneys never were requested by the Trustee to produce any Documents for the three years that Joseph Campisi was our Attorney. In addition, the Trustee never indicated to them, me, my wife, or this Honorable Court that the Trustee controls my wife's derivative action until September 23, 2013.

3.) A cursory review of my wife's Bankruptcy Docket indicates she was discharged on 6/14/2011, with no timely objections made by the Trustee and or any of the other Claimants/Creditors in her case. The last day to oppose discharge or dischargeability was 6/13/2011, (2 years and 4 months ago). In fact the major claimant in her Bankruptcy Case, Roc Le Triomphe Associates LLC, acknowledges her Bankruptcy Discharge in a Letter dated June 15<sup>th</sup> 2012 to Supreme Court Justice Donna Mills which language also is contained in a Court Order dated 6/21/2012 and filed on October 15, 2013. Attached hereto and incorporated by reference as **EXHIBIT 1** is the Letter dated June 15<sup>th</sup> 2012 and the subsequent Court Order which memorializes the major Claimant's acknowledgement of her Bankruptcy Discharge one year after.

4.) In addition, Attorney Mark E. Bruh (Law Offices of Robert L. Geltzer) acknowledged at the Creditors hearing on 4/12/2011 that the derivative claim of my wife for Loss of Consortium is "negligible" and also exempt from her estate. Trustee Robert L. Geltzer never objected to her derivative claim and in fact never stated said claim as part of the Bankruptcy Trustee's requirement to do so within 30 days of her Bankruptcy Discharge. It should be noted that the Trustee and Trustee's Attorney, Mark E. Bruh and the major creditor's Law Firm, Kucker and Bruh, needs to disclose if a conflict exists by virtue of their last names or for other reasons unknown.

5.) The Trustee Robert L. Geltzer has in addition failed and refused to deliver to my Wife the Documents shown/given to him at the Creditor's Hearing by the Law Firm of Kucker and Bruh. Said evidence was withheld and not produced by

Kucker and Bruh at the Trial in Landlord/Tenant Court by which they obtained their fraudulent Judgment. Attached hereto and incorporated by reference is **EXHIBIT 2**, Letter to Robert L. Geltzer, U.S. Bankruptcy Trustee dated June 4, 2012, to which he never responded, to date.

6.) On July 20<sup>th</sup> 2013, my Attorneys Dinkes and Schwitzer filed an Order to Show Cause before Supreme Court Justice Joan A. Madden. Attached hereto and incorporated by reference is the Order to Show Cause as **EXHIBIT 3**.

7.) On October 15, 2013 and November 5, 2013 an Affirmation in Opposition was filed by my Former Law Firm Schwartz, Goldstone and Campisi. Attached hereto and incorporated by reference is the Affirmation in Opposition dated November 5<sup>th</sup> and November 15<sup>th</sup>, 2013 as **EXHIBIT 4** (which are identical but with both the original Case Number and the new Case number which was filed with a new index No.156478/13 with a new fee paid to get my file transferred to my new Attorneys Dinkes and Schwitzer).

8.) On October 23, 2013 my spouse, Alevtina Dick, filed a Letter with your Honor [**ECF#56**] and in response, your Courtroom Deputy filed a **Notice of Hearing** dated October 24, 2013 --to occur on December 4, 2013 before your Honor at 3:00pm. Trustee Robert L. Geltzer received both my wife's Letter and this Honorable Courts Notice of Hearing—of which he has not responded to in writing.

9.) Thereafter and unbeknownst to me, my spouse and my current Attorneys, Trustee Robert L. Geltzer had an ex-parte conversation with Supreme Court Justice Manuel Mendez in regard to my Personal Injury File Index No. 112435/09, pending with the Supreme Court of the State of New York, County of New York, which resulted in the Order as contained within **EXHIBIT 5** incorporated by reference and attached hereto.

10.) That Trustee Robert L. Geltzer was aware of the hearing before your Honor that will occur on December 4, 2013—yet he elected not to wait for the hearing before your Honor, and in addition did circumvent filing a Motion in your Court or filing a Motion in the Supreme Court, yet he was able to obtain an Order from the Supreme Court Justice in my Personal Injury Case to obtain the “legal” file of my

spouse Alevtina Dick. He improperly prevented my case file from being transferred to my new counsel. In my belief, the Trustee acted with no Jurisdictional Authority and/or Legal basis to do so. In fact, I believe it is illegal and ethically improper to engage in such behavior, as is ex-parte discussions with a Supreme Court Judge who is the presiding Judge in my Personal Injury Action.

11.) Trustee Robert L. Geltzer was aware or should have been aware by virtue of the Letter dated October 23, 2013 to your Honor [ECF # 56], that my Personal Injury File only contains my Private Medical Records, my Depositions and Information protected by my Attorney-Client Privilege. Yet Robert L. Geltzer zealously continued to pursue an unethical, illegal and wholly improper course of action utilizing his Trustee status in ex-parte private conversations with a Supreme Court Justice thereby prejudicing me, my wife and my Attorneys in the prosecution of my Personal Injury Case for the last 5-6 months.

12.) On November 5, 2013 my new Attorneys filed a Reply Affirmation which is attached hereto and incorporated by reference as **EXHIBIT 6**.

13.) On November 6, 2013, the date of the Show Cause Hearing, the Supreme Court Justice rendered an Order which is attached hereto and incorporated by reference as EXHIBIT 5. My wife's "Legal File" consists of a retainer agreement with both our original Attorney(s). There was no intake sheet with either of those Law Firms.

Judge Lord, please be aware that I survived a very serious car accident in which I was the passenger, on May 16, 2009. I have suffered and undergone years of therapy in an attempt to correct the physical, mental and financial damage inflicted upon me. Within the last year I have undergone two (2) major surgeries (Urinary Bladder Cancer and Lumbar Back Fusion) as a result of the car accident. In the next few months I will be having major surgery on my Neck and Foot, also caused by the car accident.

The malicious threats, harassment and unlawful acts that have been committed by the Trustee has caused me great emotional distress and has both negatively

affected my recovery and current preparation for my next surgeries. My wife is my sole caretaker and has also been negatively affected by the Trustee's action(s).

I believe the aforementioned acts are contrary to Federal Law, State Law, The New York Rules of Professional Conduct, and the Chief Judges Standards for Civility under Administrative Order #568, dated October 28<sup>th</sup>, 2010. The Trustee may have committed other illegal & unethical acts of which I am currently unaware.

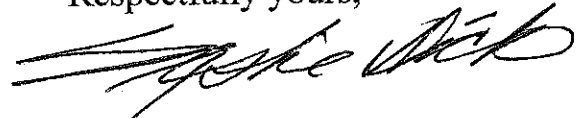
Judge Lord I am respectfully requesting that the Trustee Robert L. Geltzer and the the Trustee's Law Firm, Law Offices Robert L. Geltzer be held accountable for his behavior and that he testify under oath in regard to his actions complained herein.

In addition, I respectfully request that an Order be issued that Trustee Robert L. Geltzer has no interest in and/or right to have ex-parte or any discussions in regard to my Personal Injury Case and that my entire Legal File including my wife's Legal File be turned over to our Attorney's Dinkes and Schwitzer, P.C. Attn: William Schwitzer & William R. Hamel.

Please be advised that Dinkes and Schwitzer and I will be attending your hearing on December 4, 2013 at 3:00pm and respectfully request that the issues I have raised in this letter will be taken up for consideration in addition to the issues raised by my wife as contained in her letter to you[ECF#56], since they have become the same issue as a direct result of Trustee Robert L. Geltzer's acts.

Judge Lord, I thank you for your attention and consideration.

Respectfully yours,



Leslie Dick  
917.362.7111  
114-06 Queens Blvd. C8  
Forest Hills, New York 11375

Cc: Robert L. Geltzer, Trustee  
Dinkes and Schwitzer, P.C.  
Schwartz, Goldstone and Campisi  
U.S. Bankruptcy Clerk

## SUPREME COURT OF THE STATE OF NEW YORK—NEW YORK COUNTY

PRESENT : DONNA M. MILLS*Justice*PART 58ROC LE TRIOMPHE ASSOCIATES, LLC,INDEX No. 101928/12

-against-

Petitioner,

DAVID PODELL,

Defendant.

MOTION DATE \_\_\_\_\_

MOTION SEQ. No. 001

MOTION CAL No. \_\_\_\_\_

**RECEIVED**  
**JUN 28 2012**  
**MOTION SUPPORT OFFICE**  
**NYS SUPREME COURT - CIVIL**

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion \_\_\_\_\_.

PAPERS NUMBERED

Notice of Motion/Order to Show Cause-Affidavits- Exhibits....

Answering Affidavits- Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

CROSS-MOTION: \_\_\_\_\_ YES ☒ NO

This Court's decision and Order dated March 29, 2012 is vacated and  
 Petitioner's motion is decided as follows:

Petitioner seeks an Order directing David Podell, a civil defendant in a personal injury action filed by judgment debtors, Leslie Dick and Alevtina Dick, to turn over any settlement or judgment arising from that lawsuit to Petitioner herein up to the amount of \$114,700 to satisfy a judgment previously rendered against the judgment debtors in the Civil Court of the City of New York.

Accordingly, the Petition is granted on default to the extent that it is

- EXHIBIT 1 -

ORDERED and ADJUDGED that settlement or judgment entered against Respondent David Podell for a monetary amount in the New York County Supreme Court action (Index No. 112435/09) entered in favor of Mr. Leslie Dick only on his claim for damages for his injuries, but not any such amount entered in favor of Ms. Alevtina Dick on her separate claim for loss of consortium, shall instead be entered in favor of the Petitioner in partial or full satisfaction of the unpaid judgment against the Judgment Debtors, Leslie Dick and Alevtina Dick, and that the Respondent turn over to Roc Le Triomphe Associates, LLC, the Petitioner herein, any such judgment or settlement in favor of Mr. Leslie Dick only in a sum not less than one hundred and fourteen thousand and seven hundred dollars plus any accrued interest, being the amount required to satisfy the judgment entered in the action between Roc Le Triomphe Associates, LLC, as Petitioner and Judgment Creditor and Leslie Dick and Alevtina Dick, as Judgment Debtors, and it is further

ADJUDGED that upon turnover of such funds, the Respondent David Podell shall be discharged of all liability on this account to the extent of payment made.

Dated:

6/21/12

Donna M. Mills  
DONNA M. MILLS, J.S.C.

Check one:

☒

FINAL DISPOSITION

☐

NON-FINAL DISPOSITION

**FILED**  
OCT 15 2013

COUNTY CLERK'S OFFICE  
NEW YORK

Norman Grdman  
Clerk

ROC LE TRIOMPHE ASSOCIATES LLC,

Petitioner,

-against-

ALEVTINA DICK and LESLIE DICK  
245 East 58<sup>th</sup> Street  
Apartment # PH-D  
New York, New York 10022

Respondent-Tenant.

*order and*  
**JUDGMENT**

Attorneys for

**KUCKER & BRUH, LLP**  
PETITIONER

747 THIRD AVENUE  
NEW YORK, NEW YORK 10017  
(212) 869-5030

**FILED**  
OCT 15 2013  
AT 2:14 P M  
N.Y., CO. CLK'S OFFICE

Please refer all communications to: Tanya M. Owens Esq.

Pursuant to 22 NYCRR 130.1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: October 14, 2013

Signature

Print Signer's Name

Tanya M. Owens, Esq.

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

**PLEASE TAKE NOTICE**

☐  
NOTICE OF  
ENTRY

that the within is a (certified) true copy of a  
entered in the office of the clerk of the within-named Court on

20

☐  
NOTICE OF  
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the  
Hon. \_\_\_\_\_, one of the judges of the within-named Court,  
at \_\_\_\_\_  
on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ M.

Dated:

**KUCKER & BRUH, LLP**

Attorneys for

To:

747 THIRD AVENUE  
NEW YORK, NEW YORK 10017

Attorney(s) for



STATE OF NEW YORK, COUNTY OF

I, the undersigned, am an attorney admitted to practice in the courts of New York, and

certify that the annexed

has been compared by me with the original and found to be a true and complete copy thereof.

say that I am the attorney of record, or of counsel with the attorney(s) of record, for

I have read the annexed

know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following:

The reason I make this affirmation instead of

is

I affirm that the foregoing statements are true under penalties of perjury.

Dated:

(Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF

ss:

being sworn says: I am

in the action herein, I have read the annexed

know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.

the

or

a corporation, one of the parties to the action; I have read the annexed

know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.

My belief, as to those matters therein not stated upon knowledge, is based upon the following:

Sworn to before me on

20

(Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF *New York*

ss:

*Arielle Powell* being sworn says: I am not a party to the action, am over 18 years ofage and reside at *Kings County, New York*On *October 16*

, 2013, I served a true copy of the annexed

in the following manner:

*Notice of Entry*

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service addressed to the address of the addressee(s) indicated below, which has been designated for service by the addressee(s) or, if no such address has been designated, is the last known address of the addressee(s);

by delivering the same personally to the persons at the address indicated below;

by transmitting the same to the attorney by facsimile transmission to the facsimile telephone number designated by the attorney for that purpose. In doing so, I received a signal from the equipment of the attorney served indicating that the transmission was received and mailed a copy of same to that attorney, in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service, addressed to the address of the addressee(s) as indicated below, which has been designated for service by the addressee(s) or, if no such address has been designated, is the last known address of the addressee(s);

by transmitting the same to the attorney by electronic means upon the party's written consent. In doing so, I indicated in the subject matter heading that the matter being transmitted electronically is related to a court proceeding;

by depositing the same with an overnight delivery service in a wrapper properly addressed, the address having been designated by the addressee(s) for that purpose or, if none is designated, to the last known address of addressee(s). Said delivery was made prior to the latest time designated by the overnight delivery service for overnight delivery. The address and delivery service are indicated below:

*And Podell*  
*7 East 78<sup>th</sup> Street*  
*New York, NY 10021**Haey, King, Jeter Epstein*  
*55 Water St, 29<sup>th</sup> Floor*  
*New York, NY 10091**Leslie Dick and Aleutina Dick*  
*114-06 Queens Blvd, Apt C8*  
*Queens, NY 11375**Dimost Scherzer P.C.*  
*Attn: William R. Hamel, Esq.*  
*112 Madison Avenue*  
*New York, NY 10016**Leslie Dick Worldwide LTD*  
*Attn: Leslie Dick and Aleutina Dick*  
*60 East 42<sup>nd</sup> St, Suite 1166*  
*New York, NY 10015*

Sworn to before me on

*October 14*

, 2013

*[Signature]*  
REFKAH LYNN JOHNSON*[Signature]*  
*Arielle Powell*



Index No.

Year 20

101928/2012

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

ROC LE TRIOMPHE ASSOCIATES LLC,

Petitioner,

-against-

DAVID PODELL,

Respondent.

**FILED****OCT 17 2013****COUNTY CLERK'S OFFICE  
NEW YORK**

## NOTICE OF ENTRY

**KUCKER & BRUH, LLP**

Attorneys for

## PETITIONER

747 THIRD AVENUE  
NEW YORK, NEW YORK 10017  
(212) 869-5030

Please refer all communications to: Tanya M. Owens Esq.

Pursuant to 22 NYCRR 130.1.1 a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: October 16, 2013

Signature

Print Signer's Name

Tanya M. Owens, Esq.

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

## PLEASE TAKE NOTICE

☐  
NOTICE OF  
ENTRYthat the within is a (certified) true copy of a  
entered in the office of the clerk of the within named Court on

20

☐  
NOTICE OF  
SETTLEMENTthat an Order of which the within is a true copy will be presented for settlement to the  
Hon. \_\_\_\_\_, one of the judges of the within named Court,  
at \_\_\_\_\_  
on \_\_\_\_\_ 20\_\_\_\_, at \_\_\_\_\_ M.

Dated:

**KUCKER & BRUH, LLP**

Attorneys for

747 THIRD AVENUE

NEW YORK, NEW YORK 10017

To:

Jun. 15. 2012 6:04PM

No. 0634 P. 2

**Kucker  
& Bruh, LLP**

ATTORNEYS AT LAW

747 THIRD AVENUE  
NEW YORK, NY 10017

212-868-3030

FAX 212-944-5518

www.kuckerandbruh.com

SAUL D. BRUH	BRANDON S. GRIBBEN†
ALAN D. KUCKER	MARC J. BLOCH†
PATRICK K. MUNSON	TANYA M. OWENS
JAMES R. MARINO	JONATHAN I. MANN
NATIV WINIARSKY	
ANDREW B. BITTENS†	OF COUNSEL:
WILLIAM D. HUMMELL	ABNER T. ZELMAN
JOHN M. CHURNEFTSKY	ROBERT H. BERMAN
CATHERINE A. HELWIG†	GREGG R. KURLANDER†
IVAN B. OKUN	

†ALSO ADMITTED IN N.Y.

June 15, 2012

**BY FAX TO (212) 374-2295:**Hon. Donna Mills, J.S.C.  
111 Centre Street, Room 545  
New York, New York 10013**Re: Roc Le Triomphe Associates, LLC v. Podell, Index No. 101928/12**

Dear Justice Mills:

My firm represents Roc Le Triomphe Associates, the Petitioner in the above-referenced proceeding. A default judgment had previously been submitted and signed in favor of the Petitioner against David Podell, the Respondent herein, which in relevant part directed the Respondent to pay over to the Petitioner the proceeds of any judgment or settlement awarded against him up to the amount of \$114,700 in a certain personal injury action, titled Dick v. Podell, Index No. 112435/09, which had been brought against him by Mr. Leslie Dick and his wife, Ms. Alevtina Dick, who are judgment debtors of the Petitioner. No judgment has yet been entered in said personal injury action, and therefore no such payment has been made.

However, as Ms. Alevtina Dick has filed for bankruptcy and is currently a debtor in the chapter 7 bankruptcy case titled In re Alevtina Dick, chapter 7 case number 11-41682-nhl pending in the U.S. Bankruptcy Court for the Eastern District of New York, the judgment herein should have provided for the payment to the Petitioner of the proceeds of any judgment in the personal injury action *only* with respect to any judgment entered in favor of Mr. Leslie Dick on his claim for damages for his injuries, and *not* with respect to any judgment entered in favor of Ms. Alevtina Dick (who was not injured) on her separate claim for loss of consortium. We accordingly request that the following language be substituted for the decretal language of the previously signed judgment (which should be withdrawn), as follows:

"Accordingly, the Petition is granted on default to the extent that it is

ORDERED and ADJUDGED that settlement or judgment entered against Respondent David Podell for a monetary amount in the New York County Supreme Court action (Index No. 112435/09) *entered in favor of Mr. Leslie Dick only on his claim for damages for his injuries, but not any such amount entered in favor of Ms. Alevtina Dick on her separate claim for loss of consortium*, shall instead be entered in favor of the Petitioner in partial or full satisfaction of the unpaid judgment against the Judgment Debtors, Leslie Dick and Alevtina Dick, and that the Respondent turn over to Roc Le Triomphe Associates LLC, the Petitioner herein, any such judgment or settlement *in favor of Mr. Leslie Dick only* in a sum not less than one hundred and

Jun. 15. 2012 6:04PM

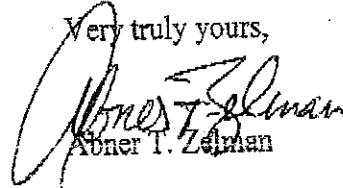
No. 0634 P. 3

fourteen thousand and seven hundred dollars plus any accrued interest, being the amount required to satisfy the judgment entered in the action between Roc Le Triomphe Associates, LLC, as Petitioner and Judgment Creditor and Leslie Dick and Alevtina Dick, as Judgment Debtors, and it is further

ADJUDGED that upon turnover of such funds, the Respondent David Podell shall be discharged of all liability on this account to the extent of payment made."

Please do not hesitate to contact us if you have any questions or comments regarding the enclosed. Thank you for your assistance in this matter.

Very truly yours,



Abner T. Zelman

Cc: Richard Freire, Esq. (by fax)

Hoey King Epstein Prezioso & Marquez

June 4, 2012

Mr. Robert L. Geltzer  
U.S. Bankruptcy Trustee  
1556 Third Avenue  
New York, NY 10128  
212.410.0100  
212.410.0400(fax)

**via Fax & Hand Delivered**

**Re: Request for Audio/Documents from Creditors Hearing on 4/12/2011**  
**Case No. 1-11-41682-nhl**

Dear Mr. Geltzer:

- 1) Can you please provide the audio for the Creditors Hearing held on 4/12/2011. In addition can you please provide copies of the Document(s) presented to you by the Law Firm of Kucker and Bruh at that Creditors Hearing. I will have them picked up on Tuesday, June 5, 2012.
- 2) Please be advised that the Kucker and Bruh Law Firm represented to the Judge in Landlord/Tenant Court that they produced all Subpoenaed Documents during the Trial. However it appears that they did not, since those specific Documents are not in the Trial Documents and/or Exhibits, nor do I have a copy of them.
- 3) Please confirm the Hearing Date, Time and Location for the June 18<sup>th</sup> Hearing. I will be requiring a Russian interpreter, as I did not need one prior since my previous Attorney spoke both Russian and English. Thank you.

Very truly yours,

Alevtina Dick/translated  
114-06 Queens Boulevard  
Apt. C-8  
New York, New York 11375

- EXHIBIT 2 -

At an IAS Part , of the Supreme Court of the State of New York, held in and for the County of New York, at the County Courthouse, located at 60 Centre Street, New York, New York, on the 20 day of July 2013.

P R E S E N T : **HON. JOAN A. MADDEN**  
HON. **J.S.C.**

Justice

=====

LESLIE DICK,

Petitioner(s),

ORDER TO SHOW CAUSE

-against-

Index No.: 156478/13

To Compel prior attorney  
To turn over legal file  
To new counsel,  
(SCHWARTZ, GOLDSTONE & CAMPISI, LLP)

Respondent(s).

=====

Upon reading and filing the annexed Affirmation of WILLIAM R. HAMEL, ESQ., attorney for LESLIE DICK, dated July 15, 2013, with its supporting papers and upon all the pleadings and proceeding had herein,

SCHWARTZ, GOLDSTONE & CAMPISI, LLP, show cause at Supreme Court, New York County, Part 11, Room 35, thereof, to be held at the Courthouse, 60 Centre Street, New York, New York, on the 20<sup>th</sup> day of August, 2013, at 9:45 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard,

WHY an Order should not be granted and entered herein ordering the SCHWARTZ, GOLDSTONE & CAMPISI, LLP to turn over the legal file of the matter concerning LESLIE DICK, to DINKES & SCHWITZER, P.C. whom have been substituted as attorneys in place


EXHIBIT 3



of said law office by LESLIE DICK.

SUFFICIENT cause appearing therefore, let service of a copy of this order, together with the Affirmation and supporting papers attached, upon SCHWARTZ, GOLDSTONE & CAMPISI, LLP located at 90 Broad Street, Suite 403, New York, NY 10004, by certified mail return receipt requested on or before the 25 day of *July*, 2013, be deemed good and sufficient service.

E N T E R

J.S.C. 

HON. JOAN A. MADDEN  
J.S.C.

Opposition papers shall be served by \_\_\_\_\_.

Reply paper, if any, shall be served by \_\_\_\_\_.

All papers shall be served, so received, by the above dates and shall be e-filed, if applicable, with hard copies to be filed with the Clerk of Part 11 at least three days prior to the return date.  
Oral argument is required.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

=====

LESLIE DICK,

Petitioner(s),

PETITION

Index No.:

-against-

To Compel prior attorney  
To turn over legal file  
To new counsel,  
(SCHWARTZ, GOLDSTONE & CAMPISI, LLP)

Respondent(s).

=====

WILLIAM HAMEL, ESQ., an attorney duly admitted to practice law before the Courts of the State of New York, hereby affirms the truth of the following under the penalties of perjury:

1. That on July 8, 2013, the Law Office of Dinkes & Schwitzer, P.C. was retained by the Plaintiff, LESLIE DICK to prosecute a negligence action on his behalf.

2. That on July 8, 2013, LESLIE DICK executed a Consent to Change Attorney form substituting your affirmant's office for his former attorney, SCHWARTZ, GOLDSTONE & CAMPISI, LLP, and this consent form was forwarded by facsimile and certified mail to said law office along with a correspondence advising him to take no further action on the case and to provide affirmant's office with a list of disbursements. (Copies of which are attached hereto as Exhibit "A").



3. That this action arises from an accident which occurred on May 16, 2009, at which time LESLIE DICK was caused to sustained serious personal injuries.

4. That LESLIE DICK wishes the case and the file regarding this matter be transferred, immediately, to the affirmant's office.

5. That despite the acknowledged receipt of the Consent to Change Attorney form by the SCHWARTZ, GOLDSTONE & CAMPISI, LLP, said office has failed to turn over the files to your affirmant's office.

6. That your affirmant has made numerous telephone calls to respondent's office inquiring about said file and to date said file has not been turned over.

7. That incoming counsel, Dinkes & Schwitzer is ready and willing to pay any disbursements incurred by the outgoing counsel.


8. However, it is requested that this Court grant an Order directing that the outgoing attorney immediately transfer the entire contents of the file of the plaintiff LESLIE DICK to his new counsel. It is further requested that any lien that the outgoing attorneys have in regard to attorneys fees be held in abeyance pending the resolution of this matter by settlement or

judgment.

9. No prior application has been made for the release requested herein.

WHEREFORE, your affirmant respectfully requests that this Court grant an Order directing the law office of SCHWARTZ, GOLDSTONE & CAMPISI, LLP, to turn over the entire file regarding LESLIE DICK, immediately, to the affirmant's office, and for the Court to direct that any attorneys fees be held in escrow and that the attorneys are to distribute the fees by agreement, and in the event that no agreement can be reached that the Court set this matter down for a hearing at the conclusion of the case to determine the equitable distribution of attorneys fees earned in this matter and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
July 15, 2013



---

WILLIAM HAMEL

# EXHIBIT “A”

WILLIAM SCHWITZER

WILLIAM R. HAMEL  
SETH M. DIAMOND  
DENNIS A. BREITNER  
JOHN C. MERLINO

ANDREA M. ARRIGO  
JEFFREY B. BROMFELD  
JACOB GALPERIN  
RAPHAEL RYBAK  
ELLEN SUNDHEIMER  
JONATHAN E. GOLD  
LAURENCE D. ROGERS

# Dinkes & Schwitzer, P.C.

ATTORNEYS-AT-LAW

112 Madison Avenue • New York, N.Y. 10016 • 212/685-7800

WILLIAM DINKES  
(1942-2007)

MARC R. MAUSER  
OF COUNSEL

HERBERT G. LINDENB  
OF COUNSEL

RAUL P. MERUELO  
OF COUNSEL

FAX: 212/685-23

July 8, 2013

Schwartz, Goldstone & Campisi, LLP  
90 Broad Street, Suite 403  
New York, NY 10004

Re: Leslie Dick  
File No.: SRDS13-059  
D/A: May 16, 2009

Dear Sirs:

Please be advised that we have been retained by the above named-mentioned client to represent his, in regard to his accident which occurred on May 16, 2009. Therefore, we ask that you stop all legal work on his behalf.

Kindly advise us of all legal disbursements on this file so that we may reimburse you and have the file transferred to our office.

If there are any additional questions, please feel free to contact the undersigned.

Very truly yours,

  
WILLIAM R. HAMEL

WRH/ap  
Enclosures

*Consent must be signed by attorney of record and signed and acknowledged by party. Type name beneath each signature.*

## COURT

COUNTY OF

Index No.

LESLIE DICK

Plaintiff(s)

against

Defendant(s)

**CONSENT  
TO CHANGE  
ATTORNEY**

## IT IS HEREBY CONSENTED THAT

DINKES &amp; SCHWITZER, P.C., 112 Madison Avenue, New York, NY 10016

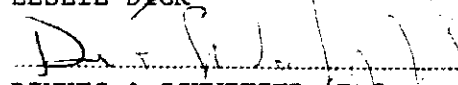
Esq.

of No.

*be substituted as attorney(s) of record for the undersigned party(ies) in the above entitled action in place and stead of the undersigned attorney(s) as of the date hereof.*

Dated: July 8, 2013

  
 LESLIE DICK

  
 DINKES & SCHWITZER, P.C.

SCHWARTZ, GOLDSTONE &amp; CAMPISI, LLP

 STATE OF NEW YORK  
 COUNTY OF NEW YORK

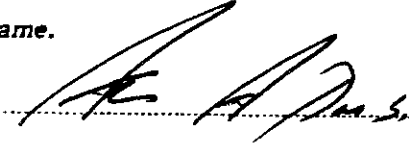
ss.:

On the 8th day of July, 2013

, 19 , before me personally came

LESLIE DICK  
*to me known, and known to me to be the same person described in and who executed the foregoing consent and acknowledged to me that he executed the same.*

**ATHENIA A. PARKS**  
 Commissioner of Deeds  
 City of New York, No. 4-8997  
 Cert. Filed in New York County  
 Commission Expires Aug. 1, 2013



July 8, 2013

Schwartz, Goldstone & Campisi, LLP  
90 Broad Street, Suite 403  
New York, NY 10004

Re: My Case  
Date of Accident: 5/16/09

To Whom It May Concern:

Please be advised that I have retained the law firm of Dinkes & Schwitzer, P.C., 112 Madison Avenue, New York, N.Y. 10016, to be substituted in your place in connection with my case.

You are directed to turn over my complete file to Dinkes & Schwitzer, P.C., immediately. You are further directed to take absolutely no further action on my behalf.

Please call William Schwitzer at the office of Dinkes & Schwitzer, P.C. at (212) 685-7800 immediately to arrange to have my file picked up.

Do not call me or communicate with me in anyway. All further contact should be directed to Mr. Schwitzer.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen A. Dinkes", written in a cursive style.

English

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# Track & Confirm

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
70123460000136622407		Delivered	July 10, 2013, 1:17 pm	NEW YORK, NY 10004	Certified Mail™
		Arrival at Unit	July 10, 2013, 6:45 am	NEW YORK, NY 10004	
		Processed through USPS Sort Facility	July 10, 2013, 1:19 am	NEW YORK, NY 10199	
		Depart USPS Sort Facility	July 10, 2013	NEW YORK, NY 10199	
		Processed through USPS Sort Facility	July 9, 2013, 8:10 pm	NEW YORK, NY 10199	

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Sent To  
**Schwartz, Goldstone & Campisi, LLP**  
 Street, Apt. No.;  
 or PO Box No. **90 Broad Street, Suite 403**  
 City, State, ZIP+4  
**New York, NY 100**

PS Form 3800, August 2006 See Reverse for Instructions

TRANSMISSION VERIFICATION REPORT

TIME : 07/10/2013 02:21  
NAME : DINKES&SCHWITZER  
FAX : 1  
TEL : 2126859405  
SER.# : BROL2V418770

DATE, TIME  
FAX NO./NAME  
DURATION  
PAGE(S)  
RESULT  
MODE

07/10 02:21  
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00:00:37  
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OK  
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WILLIAM SCHWITZER

WILLIAM R. HAMEL  
BETH M. DIAMOND  
DENNIS A. BREITNER  
JOHN C. MERLINO

ANDREA M. ARRIGO  
JEFFREY B. BROMFELD  
JACOB GALPERIN  
RAPHAEL RYBAK  
ELLEN SUNDHEIMER  
JONATHAN E. GOLD  
LAURENCE D. ROGERS

## Dinkes & Schwitzer, P.C.

ATTORNEYS-AT-LAW

112 Madison Avenue • New York, N.Y. 10016 • 212/685-7800

WILLIAM DINKES  
(1942-2007)

MARC R. MAUSEL  
OF COUNSEL

HERBERT G. LINDEN  
OF COUNSEL

PAUL P. MERUEL  
OF COUNSEL

FAX: 212/685-21

July 8, 2013

Schwartz, Goldstone & Campisi, LLP  
90 Broad Street, Suite 403  
New York, NY 10004

Re: Leslie Dick  
File No.: SRDS13-059  
D/A: May 16, 2009

Dear Sirs:

Please be advised that we have been retained by the above named-mentioned client to represent his, in regard to his accident which occurred on May 16, 2009. Therefore, we ask that you stop all legal work on his behalf.

Kindly advise us of all legal disbursements on this file so that we may reimburse you and have the file transferred to our office.

If there are any additional questions, please feel free to contact the undersigned.





SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
LESLIE DICK,

Petitioner,

-against-

AFFIRMATION  
IN OPPOSITION

Index No.: 156478/13

To compel prior attorney to turn over legal file to new  
counsel,  
(Schwartz, Goldstone & Campisi, LLP),

Respondent.

-----X  
Tara M. Kennedy, an attorney duly admitted to practice before the courts of this State,  
and an associate of SCHWARTZ GOLDSTONE & CAMPISI, LLP, attorneys for plaintiff(s), affirms  
the following to be true under penalty of perjury:

1. I am fully familiar with all of the pleadings and proceedings had in this matter  
previously, and make this affirmation in opposition to the motion by DINKES & SCHWITZER, P.C.  
to order the law firm SCHWARTZ, GOLDSTONE & CAMPISI, LLP to turn over the legal file on  
the matter concerning plaintiff Leslie Dick.

2. On August 20, 2013 your affirmant appeared on the instant motion before Judge  
Madden. I advised the attorney who appeared on behalf of Dinkes & Schwitzer, P.C. that the  
plaintiff's wife, Alevtina Dick, is also a plaintiff in the action and there was a Bankruptcy Trustee  
assigned to the matter and that the Trustee's consent was necessary in order for us to turn over the  
file.

3. The Bankruptcy Trustee is Robert L. Geltzer, whose information I gave to counsel at  
the last court appearance. On September 20, 2013, our office received correspondence from Mr.  
Geltzer, indicating that our office is acting as his special personal injury counsel in connection with

- EXHIBIT 4 -

the Dicks' personal injury lawsuit. Contrary to Dinkes & Schwitzer's position that the bankruptcy has been discharged, Mr. Geltzer continues to serve as Trustee. As indicated in his letter, our office is under a fiduciary duty to the Estate, not Alevntina Dick. See, copy of correspondence annexed hereto as **Exhibit "A"**.

4. In response, our office advised Mr. Geltzer that Dinkes & Schwitzer is attempting to substitute our office as personal injury counsel on this matter and forwarded to him copies of Dinkes & Schwitzer's Order to Show Cause. See, copy of correspondence annexed hereto as **Exhibit "B"**.

5. Upon consent of the Bankruptcy Trustee, payment of our disbursements, and an agreement that our office shall have a lien for attorney's fees, which shall be determined at the resolution of this matter, our office will gladly turn over the legal file.

WHEREFORE, affirmant respectfully requests that the within motion be in all respects denied as argued above, together with such other, further, and different relief as to this Court seems just and proper.

DATED: New York, New York  
October 15, 2013

  
Tara M. Kennedy

# EXHIBIT A

09/20/2013 14:37 2124100400

ROBERT L GELTZER

PAGE 01/01

LAW OFFICES OF  
**ROBERT L. GELTZER**1556 THIRD AVENUE  
NEW YORK, NEW YORK 10128  
(212) 410-0100

FACSIMILE (212) 410-0400

## TELECOPY TRANSMITTAL LETTER

DATE: September 20, 2013 TIME: \_\_\_\_\_

TO: Joseph Campisi, Esq. BY FAX ONLY

FAX NO.: (212) 385-2308

FROM: ROBERT L. GELTZER

RE: Alvetina Dick - Case No. 11-41682 (NHL) -- Your File No. 3368

REMARKS: I HAVE WRITTEN TO YOU SEVERAL TIMES IN CONNECTION WITH THE ABOVE CASE WHERE I SERVE AS FEDERAL BANKRUPTCY TRUSTEE AND YOU HAVE BEEN ACTING AS MY SPECIAL PERSONAL INJURY COUNSEL.

I AM TRYING TO CONTINUE THAT RELATIONSHIP. HOWEVER, I AM YOUR CLIENT (OR SEEKING TO RETAIN YOU), AND HAVE A FIDUCIARY DUTY TO THE ESTATE, THE UNITED STATES TRUSTEE'S OFFICE AND THE COURT, AND NEED YOUR RESPONSE.

THUS, IF I DO NOT HAVE YOUR RESPONSE BY TOMORROW, I SHALL MOVE BEFORE THE BANKRUPTCY COURT FOR YOU TO TURN THE ENTIRE FILE OVER TO ME.

Very truly yours,

s/ Robert L. Geltzer

Robert L. Geltzer

TOTAL NO. PAGES INCLUDING THIS TRANSMITTAL SHEET. 1

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# EXHIBIT B

## SCHWARTZ GOLDSTONE & CAMPISI, LLP

ATTORNEYS AT LAW  
90 Broad Street • Suite 403  
New York, New York 10004

(212) 962-2800  
Fax (212) 385-2308

www.sgcfirm.com

Mordecai T. Schwartz  
Bruce H. Goldstone \*  
Joseph Campisi  
David A. Kates  
Herbert Rodriguez °  
Tara M. Kennedy °

Counsel  
Joel A. Reback

\* Retired  
° Admitted in NY & NJ

September 23, 2013

**Transmission via fax at (212)410-0100 and regular mail**

Law Offices of Robert L. Geltzer  
1556 Third Avenue  
New York, New York 10128

Re: Alevtina Dick – Case No. 11-41682(JBR)  
Dick v. Podel – Index No. 112435/09  
Our File No. 3368

Dear Mr. Geltzer:

As you were advised the office of Dinkes & Schwitzer, P.C has “substituted” this office first for Leslie Dick and then, when advised of the of your role as the Bankruptcy Trustee, then Alevtina Dick.

Enclosed please find copies of the Order to Show Cause and a correspondence from Dinkes & Schwitzer, P.C. dated August 27, 2013. We have repeatedly advised the Dinkes office to obtain your consent and to be retained by you so that we may transfer file. Their position, as outlined in their letter of August 27, 2013 is that your consent is not needed. The Order to Show Cause dealing with this issue was adjourned to November 6, 2013.

Please advise how you want this office to proceed.

Thank you.

Very truly yours,

SCHWARTZ GOLDSTONE & CAMPISI, LLP

Joseph Campisi, Esq.

JC/kz  
Enclosure

**AFFIDAVIT OF SERVICE BY MAIL**

Index No.: 156478/2013

STATE OF NEW YORK            }  
  } ss:  
COUNTY OF NEW YORK        }

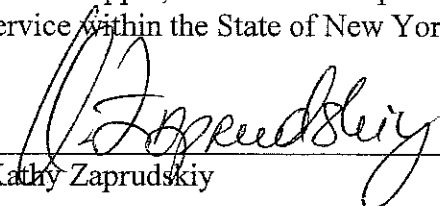
**Kathy Zaprudskiy**, being duly sworn, deposes and says: I am not a party to this action, I am over 18 years of age and reside in Kings County, State of New York.

That on the 15<sup>th</sup> day of October, 2013, I served the within


**AFFIRMATION IN OPPOSITION**

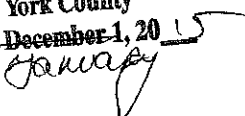
Upon: Dinkes & Schwitzer, P.C.  
112 Madison Avenue  
New York, New York 10016

at the address designated by said attorney(s) for that purpose, by depositing a true copy of same securely enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within the State of New York.

  
Kathy Zaprudskiy

Sworn to before me this 15<sup>th</sup> day of October, 2013

  
\_\_\_\_\_  
Notary Public

**Nadezhda Kravchenko**  
**Commissioner of Deeds, City of New York**  
**No. 5-1644**  
**Cert. Filed in New York County**  
**Commission Expires on December 1, 2015**  




SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
LESLIE DICK AND ALEVTINA DICK,

Plaintiffs,

-against-

DAVID PODELL,

Respondent.  
-----X

AFFIRMATION  
IN OPPOSITION

Index No.: 112435/09

Tara M. Kennedy, an attorney duly admitted to practice before the courts of this State, and an associate of SCHWARTZ GOLDSTONE & CAMPISI, LLP, attorneys for plaintiff(s), affirms the following to be true under penalty of perjury:

1. I am fully familiar with all of the pleadings and proceedings had in this matter previously, and make this affirmation in opposition to the motion by DINKES & SCHWITZER, P.C. to order the law firm SCHWARTZ, GOLDSTONE & CAMPISI, LLP to turn over the legal file on the matter concerning plaintiffs Leslie and Alevtina Dick.

2. This is the second motion currently pending before Honorable Mendez seeking the same relief.

3. On August 20, 2013 your affirmant appeared on the instant motion before Judge Madden. I advised the attorney who appeared on behalf of Dinkes & Schwitzer, P.C. that the plaintiff's wife, Alevtina Dick, is also a plaintiff in the action and there was a Bankruptcy Trustee assigned to the matter and that the Trustee's consent was necessary in order for us to turn over the file.

4. The Bankruptcy Trustee is Robert L. Geltzer, whose information I gave to counsel at the last court appearance. On September 20, 2013, our office received correspondence from Mr.

Geltzer, indicating that our office is acting as his special personal injury counsel in connection with the Dicks' personal injury lawsuit. Contrary to Dinkes & Schwitzer's position that the bankruptcy has been discharged, Mr. Geltzer continues to serve as Trustee. As indicated in his letter, our office is under a fiduciary duty to the Estate, not Alevntina Dick. See, copy of correspondence annexed hereto as **Exhibit "A"**.

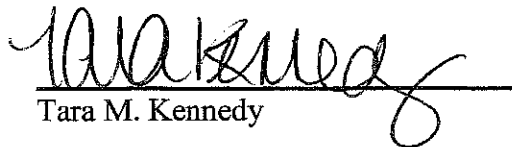
5. In response, our office advised Mr. Geltzer that Dinkes & Schwitzer is attempting to substitute our office as personal injury counsel on this matter and forwarded to him copies of Dinkes & Schwitzer's Order to Show Cause. See, copy of correspondence annexed hereto as **Exhibit "B"**.

6. On October 19, 2013 we received correspondence from the Trustee that Dinkes & Schwitzer has been nonresponsive to his requests for additional information. See, copy of correspondence annexed hereto as **Exhibit "C"**.

7. Upon consent of the Bankruptcy Trustee, payment of our disbursements, and an agreement that our office shall have a lien for attorney's fees, which shall be determined at the resolution of this matter, our office will gladly turn over the legal file.

WHEREFORE, affirmant respectfully requests that the within motion be in all respects denied as argued above, together with such other, further, and different relief as to this Court seems just and proper.

DATED: New York, New York  
November 5, 2013

  
Tara M. Kennedy

# EXHIBIT A

09/20/2013 14:37 2124100400

ROBERT L. GELTZER

PAGE 01/01

LAW OFFICES OF  
**ROBERT L. GELTZER**1556 THIRD AVENUE  
NEW YORK, NEW YORK 10128  
(212) 410-0100

FACSIMILE (212) 410-0400

## TELECOPY TRANSMITTAL LETTER

DATE: September 20, 2013 TIME: \_\_\_\_\_

TO: Joseph Campisi, Esq. **BY FAX ONLY**

FAX NO.: (212) 385-2308

FROM: ROBERT L. GELTZER

RE: Alvetina Dick - Case No. 11-41682 (NHL) -- Your File No. 3368

REMARKS: I HAVE WRITTEN TO YOU SEVERAL TIMES IN CONNECTION WITH THE ABOVE CASE WHERE I SERVE AS FEDERAL BANKRUPTCY TRUSTEE AND YOU HAVE BEEN ACTING AS MY SPECIAL PERSONAL INJURY COUNSEL.

I AM TRYING TO CONTINUE THAT RELATIONSHIP. HOWEVER, I AM YOUR CLIENT (OR SEEKING TO RETAIN YOU), AND HAVE A FIDUCIARY DUTY TO THE ESTATE, THE UNITED STATES TRUSTEE'S OFFICE AND THE COURT, AND NEED YOUR RESPONSE.

THUS, IF I DO NOT HAVE YOUR RESPONSE BY TOMORROW, I SHALL MOVE BEFORE THE BANKRUPTCY COURT FOR YOU TO TURN THE ENTIRE FILE OVER TO ME.

Very truly yours,

s/ Robert L. Geltzer

Robert L. Geltzer

TOTAL NO. PAGES INCLUDING THIS TRANSMITTAL SHEET: 1

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# EXHIBIT B

**SCHWARTZ GOLDSTONE & CAMPISI, LLP**

Mordecai T. Schwartz  
Bruce H. Goldstone \*  
Joseph Campisi  
David A. Kates  
Herbert Rodriguez °  
Tara M. Kennedy °

ATTORNEYS AT LAW  
90 Broad Street • Suite 403  
New York, New York 10004

(212) 962-2800  
Fax (212) 385-2308

www.sgcfirm.com

Counsel  
Joel A. Reback

\* Retired  
° Admitted in NY & NJ

September 23, 2013

**Transmission via fax at (212)410-0100 and regular mail**

Law Offices of Robert L. Geltzer  
1556 Third Avenue  
New York, New York 10128

Re: Alevtina Dick – Case No. 11-41682(JBR)  
Dick v. Podel – Index No. 112435/09  
Our File No. 3368

Dear Mr. Geltzer:

As you were advised the office of Dinkes & Schwitzer, P.C has “substituted” this office first for Leslie Dick and then, when advised of the of your role as the Bankruptcy Trustee, then Alevtina Dick.

Enclosed please find copies of the Order to Show Cause and a correspondence from Dinkes & Schwitzer, P.C. dated August 27, 2013. We have repeatedly advised the Dinkes office to obtain your consent and to be retained by you so that we may transfer file. Their position, as outlined in their letter of August 27, 2013 is that your consent is not needed. The Order to Show Cause dealing with this issue was adjourned to November 6, 2013.

Please advise how you want this office to proceed.

Thank you.

Very truly yours,

**SCHWARTZ GOLDSTONE & CAMPISI, LLP**

Joseph Campisi, Esq.

JC/kz  
Enclosure

# EXHIBIT C

10/19/2013 13:38 2124100400

ROBERT L. GELTZER

PAGE 01/01

LAW OFFICES OF  
**ROBERT L. GELTZER**

1556 THIRD AVENUE  
NEW YORK, NEW YORK 10128  
(212) 410-0100

FACSIMILE (212) 410-0400

October 19, 2013

William R. Hamel, Esq.  
Dinkes & Schwitzer, P.C.  
112 Madison Avenue  
New York, NY 10016

Re: **Alevtina Dick - Case No. 11-41682 (NHL)**  
**Dick v. Podell - Index No. 112435/2009**  
**Your File No. SRDS13-059**

Dear Mr. Hamel:

You have failed to respond to my September 25, 2013 letter by providing me with all information in connection with the Debtor's pre-petition personal injury action which is estate property and which I, as the Trustee for the estate, must administer, including liability, damages, and your professional estimate as to recovery.

If I do not have the information within the next three (3) days, I shall sue for the turnover of the file.

Very truly yours,

  
Robert L. Geltzer

RLG:ayh

cc: Joseph Campisi, Esq (by fax only 212-385-2308)  
U.S. Bankruptcy Clerk (by ECF Filing)  
Alevtina Dick  
Justice Manuel J. Mendez (by fax only 212-884-8975)  
New York Supreme Court



**AFFIDAVIT OF SERVICE BY MAIL**

Index No.: 112435/09

STATE OF NEW YORK                    }  
  } ss:  
COUNTY OF NEW YORK                }

**Kathy Zaprudskiy**, being duly sworn, deposes and says: I am not a party to this action, I am over 18 years of age and reside in Kings County, State of New York.

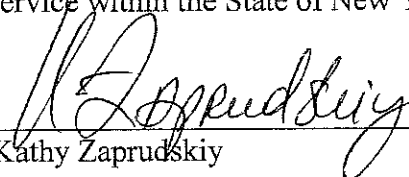
That on the 5<sup>th</sup> day of November, 2013, I served the within

**AFFIRMATION IN OPPOSITION**

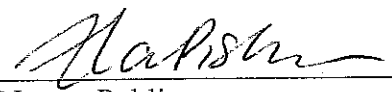
Upon: Dinkes & Schwitzer, P.C.  
112 Madison Avenue  
New York, New York 10016

Hoey, King & Epstein  
55 Water Street - 29th Floor  
New York, New York 10041  
(212) 612-4200

at the address designated by said attorney(s) for that purpose, by depositing a true copy of same securely enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within the State of New York.

  
Kathy Zaprudskiy

Sworn to before me this 5<sup>th</sup> day of November, 2013

  
\_\_\_\_\_  
Notary Public

ZHANNA PISHNYUK  
Notary Public, State Of New York  
No. 01PI6074625 *Exchm.*  
Qualified In ~~Kings~~ County  
Commission Expires May 20, 20 14

WILLIAM SCHWITZER

WILLIAM R. HAMEL  
BETH M. DIAMOND  
DENNIS A. BREITNER  
JOHN C. MERLINO

ANDREA M. ARRIGO  
JEFFREY B. BROMFELD  
ELLEN SUNDHEIMER  
LAURENCE D. ROGERS  
HARPER A. SMITH  
JORDAN S. FINKELSTEIN  
ERIC FISHMAN  
SHIBU J. JACOB  
LINDA SIMMONS

# Dinkes & Schwitzer, P.C.

ATTORNEYS-AT-LAW

112 Madison Avenue • New York, N.Y. 10016

Tel. 212/685-7800 • Fax 212/685-2356

www.dandsatlaw.com

WILLIAM DINKES  
(1942-2007)

MARC R. MAUSER  
OF COUNSEL

HERBERT G. LINDENBAUM  
OF COUNSEL

379 SMITH ROAD  
LAKE RONKONKOMA, N.Y. 11776

November 13, 2013

Robert Geltzer, Esq.  
1556 Third Avenue  
New York, N.Y. 10128

Re: Leslie and Alvetina Dick  
Our File Number: SRDS13-059

Dear Mr. Geltzer:

Enclosed please find an Order dated November 6, 2013, signed by the Honorable Judge Manuel J. Mendez from the Supreme Court, County of New York directing the law office of Schwartz, Goldstone & Campisi, LLP to transfer the Alvetina Dick file to your firm.

Kindly contact the undersigned upon receipt of this correspondence so that we may discuss the transfer of the file to our office.

If you have any questions, please feel free to contact the undersigned.

Very truly yours,

  
William Hamel

WH:ap  
Enc.

*EXHIBIT 5*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

\_\_\_\_\_  
LESLIE DICK and ALEVINA DICK,

Plaintiff,

-against-

DAVID PODELL,

Defendants.  
\_\_\_\_\_

X

ORDER WITH NOTICE OF  
ENTRY

Index No.: 112435/09

X

COUNSELORS:

PLEASE TAKE NOTICE THAT, the within is a certified true copy of an Oder dated November 6, 2013 and filed in the Office of Supreme Court New York County Clerk on November 6, 2013.

Dated: New York, New York  
November 13, 2013

Yours, etc.,  


\_\_\_\_\_  
BY: WILLIAM R. HAMEL, ESQ.  
DINKES & SCHWITZER, P.C.  
Attorney for Plaintiff(s)  
112 Madison Avenue  
New York, NY 10016  
(212) 685-7800  
File No.: SRDS13-059

TO: SCHWARTZ, GOLSTONE & CAMPISI, LLP  
Outgoing Attorney for Plaintiff(s)  
90 Broad Street, Suite 403  
New York, NY 10004

HOEY KING EPSTEIN PREZIOSO  
Attorney for Defendant  
55 Water Street, 29<sup>th</sup> Floor  
New York, NY 10041

## SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: MANUEL J. MENDEZ  
JusticePART 13LESLIE DICK and ALEVINA DICK,  
PlaintiffsINDEX NO. 112435/09-Against-  
DAVID PODELL,  
Defendant.MOTION DATE 11-06-2013MOTION SEQ. NO. 004

MOTION CAL. NO. \_\_\_\_\_

The following papers, numbered 1 to 5 were read on this petition to compel transfer of file.

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

PAPERS NUMBERED1-2,3-45Cross-Motion: ☐ Yes ☒ No**COPY**

Upon a reading of the foregoing cited papers, it is ordered that this motion to compel the transfer of legal file is granted to the extent stated herein.

Plaintiffs moves for an order compelling its attorneys Schwartz, Goldstone & Campisi, LLP to transfer the file in its possession for the prosecution of plaintiff's personal injury action against Dick Podell, to the Law firm of Dinkes & Schweitzer. Plaintiffs signed a "Consent to Change Attorney" form which was served on its attorneys, but they have not transferred the file.

Plaintiff Alevtina Dick, who has asserted a derivative claim in the personal injury action filed for Bankruptcy. The refuses to transfer the file until it obtains a "Consent to Change" attorney from Alevtina Dick's Bankruptcy Trustee. The Bankruptcy trustee has not given his consent to change attorneys because he is still waiting for a copy of the Personal Injury legal file, in order to review it before making any determination as to which attorney to retain for the prosecution of the action. The Trustee has written both Plaintiff's incoming attorneys and the outgoing attorneys requesting a copy of the file without any success.

Plaintiffs now move to compel the outgoing firm to transfer the file, the outgoing firm opposes the transfer without the consent of the Trustee.

After filing for Bankruptcy Alevtina Dick lacked the capacity to prosecute her personal injury action because the action then becomes an asset of the Bankruptcy estate ( see Quinn v. Guerra, 26 A.D. 3d 872, 811 N.Y.S. 2d 238 [4<sup>th</sup> Dept. 2006]) and the trustee of the estate is vested with title to all of her property, including rights and choses in action ( Weiss v. Goldfeder, 201 A.D. 2d 644, 608 N.Y.S. 2d 242 [2<sup>nd</sup>. Dept.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE  
FOR THE FOLLOWING REASON(S):

1994]), and legal or equitable interests of hers in property as of commencement of the case ( Coastal Mechanical Corp., v. Energists, Inc., 225 A.D. 2d 347, 639 N.Y.S. 2d 30[1st. Dept. 1996]). Therefore, without the Trustee's consent the outgoing firm cannot transfer the file to Plaintiff's incoming counsel. However, the Trustee will not consent to the transfer until he has been able to review the file and for this to occur a copy of the file must be transferred to the Trustee, who is the one vested with title to all of Alevtina Dick's property, including the personal injury case.

Accordingly, it is hereby ORDERED that the motion is granted to the extent of DIRECTING the law firm of SCHWARTZ, GOLDSTONE & CAMPISI, LLP, to within 30 days from the date of service of a copy of this order with notice of entry, transfer a copy of ALEVTINA DICK'S legal file in its possession to the Trustee in Bankruptcy ROBERT L. GELTZER, ESQ. 1556 THIRD AVENUE NEW YORK, N.Y. 10128, and it is further

ORDERED that the parties are to appear on the personal injury action for a status conference in IAS Part 13 located at 71 Thomas Street, Room 210, on January 22, 2014 at 9:30 A.M.

**COPY**

Enter:

MANUEL J. MENDEZ  
J.S.C.

Dated: November 6, 2013

  
Manuel J. Mendez  
J.S.C.

Check one: FINAL DISPOSITION    X NON-FINAL DISPOSITION

Check if appropriate: ☐ DO NOT POST    ☐ REFERENCE

AFFIDAVIT OF SERVICE

STATE OF NEW YORK, COUNTY OF NEW YORK

I, Athenia A. Parks, being sworn, say: I am not a party to the action, am over 18 years of age and reside in Queens County, New York.

On November 13, 2013, I served the within Order with Notice of Entry by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

TO: SCHWARTZ, GOLSTONE & CAMPISI, LLP  
90 Broad Street, Suite 403  
New York, NY 10004

HOEY KING EPSTEIN PREZIOSO  
55 Water Street, 29<sup>th</sup> Floor  
New York, NY 10041

  
ATHENIA A. PARKS

Sworn to before me this  
13<sup>th</sup> day of November, 2013

  
NOTARY PUBLIC

KRISTINA M POLANCO  
Notary Public, State of New York  
No. 01PO6190926  
Qualified in Westchester County  
Commission Expires Jan. 10, 2017

Index No.: 112435/09

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

=====

LESLIE DICK and ALEVINA DICK,

Plaintiff,

-v-

DAVID PODELL,

Defendants.

=====

**ORDER WITH NOTICE OF ENTRY**

=====

**DINKES & SCHWITZER, P.C.**

Attorney for Plaintiff

Office and Post Office Address, Telephone

112 Madison Avenue

New York, New York 10030

(212) 685-7800

=====

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

=====X  
LESLIE DICK and ALEVTINA DICK,

Index No. 112435/09

Plaintiff,

-against-

**REPLY**  
**AFFIRMATION**

DAVID PODELL,

Defendants.  
=====X

WILLIAM R. HAMEL, an attorney duly admitted to practice in the Courts of the State of New York, under penalties of perjury, and pursuant to papers in a file maintained in this office, affirms:

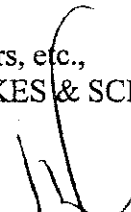
1. I am an associate of the law firm of DINKES & SCHWITZER, P.C., the attorneys for the plaintiff and I am fully familiar with the facts and circumstances surrounding this action.
2. This affirmation is submitted in reply to plaintiffs' prior counsels affirmation in opposition to our motion and in support of our motion to compel the turnover of the Leslie Dick and Alevtina Dick file.
3. Contrary, to prior counsel assertions, the United States Bankruptcy Court granted a discharge of the debtor Aletina Dick on June 14, 2011, thereby apparently discharging the Bankruptcy Court of any further obligations to Mrs. Dick, and thereby allowing for an immediate transfer of the aforementioned file. See attached hereto as Exhibit "A"
4. Consequently the Law offices of Schwartz, Goldstone & Campisi should immediately turn over the file of plaintiff Leslie Dick and Alevtina Dick.

-EXHIBIT 6-



Dated: New York, New York  
November 5, 2013

Yours, etc.,  
DINKES & SCHWITZER, P.C.  
BY:



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WILLIAM HAMEL, ESQ.  
Attorney(s) for Plaintiff  
112 Madison Avenue  
New York, New York 10016  
(212) 683-3800  
File No.: SRDS13-059

To: Law offices of Schwartz Goldstone & Campisi  
Prior Attorneys for Plaintiffs  
90 Broad Street, Suite 403  
New York, NY 10004

HOEY KING EPSTEIN PREZIOSO  
Attorneys for Defendant(s)  
55 Water Street, 29<sup>th</sup> Floor,  
New York, NY 10041

# EXHIBIT “A”

Form B18 (Official Form 18)(12/01/2007)

**United States Bankruptcy Court**

Eastern District of New York  
271 Cadman Plaza East, Suite 1595  
Brooklyn, NY 11201-1800

IN RE:

CASE NO: 1-11-41682-jbr

Alevtina Dick

114-06 Queens Blvd, C8  
Forest Hills, NY 11375

Name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address.

Social Security/Individual Taxpayer ID/Taxpayer ID/Employer ID No.:

CHAPTER: 7

xxx-xx-2025

DEBTOR(s)

**DISCHARGE OF DEBTOR(S)**

It appearing that the debtor(s) is entitled to a discharge,

**IT IS ORDERED:**

The debtor(s) is granted a discharge under Section 727 of Title 11, United States Code, (the Bankruptcy Code).

BY THE COURT

Dated: June 14, 2011

s/ Joel B. Rosenthal  
United States Bankruptcy Judge

**SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.**

STATE OF NEW YORK,

COUNTY OF NEW YORK

I, ATHENIA A. PARKS, being sworn, say: I am not a party to the action, am over 18 years of age and reside at Queen, New York. On November 5, 2013, I served the within **REPLY AFFIRMATION** by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Law offices of Schwartz Goldstone & Campisi  
Prior Attorneys for Plaintiffs  
90 Broad Street, Suite 403  
New York, NY 10004

HOEY KING EPSTEIN PREZIOSO  
Attorneys for Defendant(s)  
55 Water Street, 29<sup>th</sup> Floor,  
New York, NY 10041

  
ATHENIA A. PARKS

Sworn to before me on  
the 5<sup>th</sup> day of November, 2013

  
NOTARY PUBLIC

